

**BEFORE THE NEBRASKA TAX EQUALIZATION
AND REVIEW COMMISSION**

REGENCY LAKESIDE ASSOC. LLC,)	
)	
Appellant,)	Case No. 09C 700
)	
v.)	DECISION AND ORDER
)	DISMISSING FOR WANT OF
DOUGLAS COUNTY BOARD OF)	JURISDICTION
EQUALIZATION,)	(Jurisdiction)
)	(Unauthorized Signing of Appeal)
Appellee.)	(Standing)

The above-captioned case was called for a hearing on Order to Show Cause (Jurisdiction)(Unauthorized Signing of Appeal)(Standing) why the appeal by Regency Lakeside Assoc. LLC ("the Taxpayer") to the Tax Equalization and Review Commission ("the Commission") should not be dismissed. The hearing was held in the Commission's Hearing Room on the sixth floor of the Nebraska State Office Building in the City of Lincoln, Lancaster County, Nebraska, on January 27, 2010, pursuant to an Order to Show Cause (Jurisdiction)(Unauthorized Signing of Appeal)(Standing) issued January 13, 2010.

Commissioners Wickersham and Salmon were present. Commissioner Wickersham was the presiding hearing officer. Commissioner Hotz was excused from participation by the presiding hearing officer. Commissioner Warnes was absent. The appeal was heard by a quorum of a panel of the Commission.

Todd Richman, Sr. VP Financial Planning & Business Dev of Morgan Properties, participated in the hearing by telephone. No one appeared as legal counsel for the Taxpayer.

Thomas S. Barrett, a Deputy County Attorney for Douglas County, Nebraska, was present as legal counsel for the Douglas County Board of Equalization ("the County Board").

The Commission took statutory notice, received exhibits and heard testimony.

The Commission is required to state its final decision and order concerning an appeal, with findings of fact and conclusions of law, on the record or in writing. Neb. Rev. Stat. §77-5018 (Cum. Supp. 2008). The final decision and order of the Commission in this case is as follows.

I. ISSUES

Whether the appeal should be dismissed for unauthorized signing of appeal.

II. FINDINGS OF FACT

The Commission finds and determines that:

1. An Appeal was received by the Commission on September 10, 2009 challenging the valuation of a parcel owned by Lakeside Assoc. LLC. (Case File).
2. The Appeal was signed by Todd Richman as the SR VP Financial Planning & Business Development. (Case File).
3. Todd Richman stated on the Appeal form that he was an officer, director, full time employee etc. of Morgan Properties, agent for Regency Lakeside Assoc. LLC. (Case File).
4. Todd Richman is a limited partner of MPM Partners LP.
5. MPM Partners LP is a limited partner of MPM Venture Associates LP.
6. MPM Venture Associates LP is the sole equity member of Regency Lakeside Associated, LLC. (E1:2).

7. Todd Richman as a limited partner of MPM Partners LP has no authority to act on behalf of MPM Venture Associates LP.

III. APPLICABLE LAW

1. An appeal form must be signed by a party, legal counsel for a party or a person authorized by law or the Commission's rules and regulations to sign an appeal. 442 Neb. Admin. Code, ch 5 §001.04 (06/09).
2. A person who will be directly affected by the outcome of an appeal is one who has a real interest in the appeal or has a legal or equitable right, title, or interest in the subject of the appeal may be a party. 442 Neb. Admin. Code, ch 2 §001.36 (06/09).
3. If a party is a natural person, only that person or the “guardian” “conservator” or “next friend” (as those terms are defined in Nebraska State Law and Nebraska Supreme Court decisions) of that person may sign a petition/appeal. 442 Neb. Admin. Code, ch 5 §001.05C (06/09).
4. If a party is a corporation, limited liability company, partnership, limited partnership, or other legal entity, association, union or organization, the entity or organization may sign an appeal/petition through a director, an officer, a full-time salaried employee, member or manager of a limited liability company, or other individual authorized by law or the governing documents of the entity, association or organization. 442 Neb. Admin. Code, ch 5 §001.05D (06/09).
5. If a party is a trustee that party as trustee may sign an appeal/petition. 442 Neb. Admin. Code, ch 5 §001.05E (06/09).

6. Any other person who is a party including but not limited to a successor in interest, lessee, licensee, any bankruptcy trustee, receiver, personal representative or any other person appointed by a Nebraska Court or a Court of the United States, may sign an appeal/petition. 442 Neb. Admin. Code, ch 5 §001.04H (06/09).
7. Legal counsel for a party may sign an appeal/petition. 442 Neb. Admin. Code, ch 5 §001.04I (06/09).
8. A person without standing may not maintain an appeal. *Community Development Agency of the City of McCook v. PRP Holdings, L.L.C.*, 277 Neb. 1015, 767 N.W.2d 68 (2009).
9. Parties cannot confer subject matter jurisdiction on a tribunal by acquiescence or consent nor may it be created by waiver, estoppel, consent, or conduct of the parties. *Creighton St. Joseph Regional Hospital v. Nebraska Tax Equalization and Review Commission*, 260 Neb. 905, 620 N.W.2d 90 (2000).

IV. ANALYSIS

The appeal concerns the valuation of property owned by an LLC a limited liability company. If a party is a corporation, limited liability company, partnership, limited partnership, or other legal entity, association, union or organization, the entity or organization may be signed by a director, an officer, a full-time salaried employee, member or manager of a limited liability company, or other individual authorized by law or the governing documents of the entity, association or organization. 442 Neb. Admin. Code, ch 5 §001.05D (06/09). The appeal was signed by Todd Richman. Todd Richman is not an officer employee, member of Regency Lakeside Assoc. LLC nor does he have authority to act on behalf of any entity that has an interest

in or controls Regency Lakeside Assoc. LLC. The link between Todd Richman and Regency Lakeside Assoc. LLC is that he is an officer of Morgan Properties also known as Morgan Management an entity that has a contract allowing it to act on behalf of the owner in accordance with the agreement. The stated purpose of the Commission's rules designating persons authorized to sign appeals is to discourage the unauthorized practice of law. There is no evidence that Todd Richman is an attorney authorized to practice in the State of Nebraska. If the Commission allowed the appeal to proceed it would be acquiescing in the unauthorized practice of law. Todd Richman is not a person who is authorized to sign appeals as described in the rules and regulations of the Commission and the appeal must be dismissed.

**V.
CONCLUSIONS OF LAW**

1. The Commission does not have subject matter jurisdiction in this appeal.

**VI.
ORDER**

IT IS ORDERED THAT:

1. The appeal in Case No. 09C 700 is dismissed.
2. Each party is to bear its own costs in this proceeding.

Signed and Sealed February 2, 2010.

Nancy J. Salmon, Commissioner

Wm. R. Wickersham, Commissioner

SEAL

APPEALS FROM DECISIONS OF THE COMMISSION MUST SATISFY THE REQUIREMENTS OF NEB. REV. STAT. §77-5019 (CUM. SUPP. 2008), OTHER PROVISIONS OF NEBRASKA STATUTES, AND COURT RULES.